

## **IC 33-28-6**

### **Chapter 6. Lake County Jury Selection and Service Provisions**

## **IC 33-28-6-1**

### **Policy of chapter**

Sec. 1. The policy of this chapter is to provide a uniform system of jury selection for all courts so that:

- (1) all persons selected for jury service shall be selected at random from a fair cross-section of the population of the area served by the court; and
- (2) all qualified citizens have the opportunity in accordance with this chapter to be considered for jury service in this county and an obligation to serve as jurors when summoned for that purpose.

*As added by P.L.98-2004, SEC.7.*

## **IC 33-28-6-2**

### **"Court" defined**

Sec. 2. (a) As used in this chapter, "court" means the superior court of a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) The term includes all other courts in the counties.

*As added by P.L.98-2004, SEC.7.*

## **IC 33-28-6-3**

### **"Juror qualification form" defined**

Sec. 3. As used in this chapter, "juror qualification form" means the form prescribed for use by the court and mailed to each prospective juror, or an electronic data processing facsimile of that form that might be created on magnetic tape, punched cards, or computer discs.

*As added by P.L.98-2004, SEC.7.*

## **IC 33-28-6-4**

### **"Jury commissioner" defined**

Sec. 4. As used in this chapter, "jury commissioner" includes any deputy court administrator designated by the jury commissioner from time to time to act in the jury commissioner's place.

*As added by P.L.98-2004, SEC.7.*

## **IC 33-28-6-5**

### **"Jury wheel" defined**

Sec. 5. As used in this chapter, "jury wheel" means any list, physical device, or electronic system for the storage of the names or identifying numbers of prospective jurors.

*As added by P.L.98-2004, SEC.7.*

## **IC 33-28-6-6**

### **"Master list" defined**

Sec. 6. As used in this chapter, "master list" means all current,

up-to-date voter registration lists for each precinct in the county supplemented with names from other sources prescribed pursuant to this chapter, in order to foster the policy and protect the rights secured by this chapter. The master list may be in the form of a serially printed list, a magnetic tape, an addressograph file, punched cards, or such other form considered by the chief judge to be consistent with this chapter.

*As added by P.L.98-2004, SEC.7.*

#### **IC 33-28-6-7**

##### **"Qualified jury wheel" defined**

Sec. 7. As used in this chapter, "qualified jury wheel" means the jury wheel in which there are placed the names or identifying numbers of prospective jurors drawn at random from the master list and who are not disqualified.

*As added by P.L.98-2004, SEC.7.*

#### **IC 33-28-6-8**

##### **"Voter registration lists" defined**

Sec. 8. As used in this chapter, "voter registration lists" means the official records of persons registered to vote in the most recent general election.

*As added by P.L.98-2004, SEC.7.*

#### **IC 33-28-6-9**

##### **Discrimination prohibited**

Sec. 9. A citizen may not be excluded from jury service in counties affected by this chapter on account of race, color, religion, sex, national origin, or economic status.

*As added by P.L.98-2004, SEC.7.*

#### **IC 33-28-6-10**

##### **Responsibility for selection of jurors; computerized jury selection system**

Sec. 10. (a) The chief judge of the superior court within counties affected by this chapter is responsible for the selection of jurors as prescribed by this section.

(b) The chief judge of the superior court may authorize the use of a computerized jury selection system under this chapter. However, the system used for the selection system must be fair and may not violate the rights of persons with respect to the impartial and random selection of prospective jurors. The jurors selected under the computerized selection system must be eligible for selection under this chapter.

*As added by P.L.98-2004, SEC.7.*

#### **IC 33-28-6-11**

##### **Court administrator as jury commissioner; powers and duties**

Sec. 11. (a) The court administrator of the court shall also serve as the jury commissioner for the county, and has the powers and shall

perform the duties prescribed in this chapter for jury commissioners, under the direction of the chief judge.

(b) The court administrator in the court administrator's role as jury commissioner shall not receive any compensation in addition to the court administrator's regular salary.

(c) Performance of certain duties of the jury commissioner may be delegated to a deputy court administrator with the express approval of the chief judge.

(d) The jury commissioner may choose to follow the procedure for jury selection and service set out in IC 33-28-5 instead of the procedure set out in this chapter. If the decision to follow IC 33-28-5 is made, all the provisions of IC 33-28-5 must be followed.

*As added by P.L.98-2004, SEC.7.*

### **IC 33-28-6-12**

#### **Plan for selection of grand and petit jurors**

Sec. 12. (a) The jury commissioner, under the supervision of the chief judge, shall prepare a written plan for the selection of grand and petit jurors in this county designed to achieve the objectives of, and otherwise comply with the provisions of, this chapter. This plan must specify the following:

- (1) The source of names for the master list.
- (2) The form of the list.
- (3) The method of selecting names from the list.
- (4) The forms of, and method for, maintaining records of names drawn, jurors qualified, and juror's excuses and reasons therefore.
- (5) The method of drawing names of qualified jurors for prospective service.
- (6) The procedures to be followed by prospective jurors in requesting excuse from jury service.

The plan must either specify the number of petit jurors that constitute a panel for civil and criminal cases or describe the uniform manner in which this determination shall be made.

(b) The plan shall be placed into operation after approval by the court. The judges of the court shall examine the plan to ascertain that it complies with the intent and provisions of this chapter. If the plan is found not to comply, the court shall order the jury commissioner to make the necessary changes.

(c) The plan may be modified at any time under the procedure specified under this chapter.

(d) The plan shall be submitted by the jury commissioner to the court. The court shall approve or direct modification of the plan within sixty (60) days after its receipt. The approved plan shall go into effect not more than sixty (60) days after approval by the court.

(e) The plan is a public document on file in the office of the jury commissioner and available for inspection at all reasonable times.

*As added by P.L.98-2004, SEC.7.*

### **IC 33-28-6-13**

**Master list of registered voters**

Sec. 13. (a) The jury commissioner shall compile and maintain a master list consisting of all the voter registration lists for the county, supplemented with names from other lists of persons resident in the county that the supreme court shall periodically designate as necessary to obtain the broadest cross-section of the county, having determined that use of the supplemental lists is feasible. The supreme court shall exercise the authority to designate supplemental lists periodically in order to foster the policy and protect the rights secured by this article. The supplemental sources may include lists of utility customers, property taxpayers, and persons filing income tax returns, motor vehicle registrations, city directories, telephone directories, and driver's licenses. Supplemental lists may not be substituted for the voter registration list. In drawing names from supplemental lists, the jury commissioner shall avoid duplication of names.

(b) Whoever has custody, possession, or control of any of the lists making up or used in compiling the master list, including those designated under subsection (a) by the supreme court as supplementary sources of names, shall furnish the list to the jury commissioner for inspection, reproduction, and copying at all reasonable times.

(c) When a copy of a list maintained by a public official is furnished, only the actual cost of the copy may be charged to the court.

(d) The master list of names shall be open to the public for examination as a public record, except that the source of names and any information other than the names contained in that source may not be public information.

*As added by P.L.98-2004, SEC.7.*

**IC 33-28-6-14****Drawing of names; time; filing**

Sec. 14. (a) Names shall be drawn for juror service quarterly, based on a calendar year commencing in January. A public drawing shall be held of names for the next quarter during the first week of the second month of the quarter next preceding that for which names are being drawn, at a time and place prescribed by the jury commissioner.

(b) An alphabetic list of names so drawn shall be created and filed in the office of the jury commissioner. The list may be in the form of a serial listing or discreet records (such as punched cards or addressograph plates) filed together to constitute the list. Names may not be added to this list, except by order of the court. The names drawn or any list compiled from the names drawn may not be disclosed to any person other than under this chapter or specific order of the chief judge.

(c) The number of names required to be drawn each quarter shall be determined by the jury commissioner after consultation with all judges who may conduct jury trials during the quarter, taking into

consideration the number of jurors required for the grand jury.

(d) The frequency of drawing of names may be increased by the jury commissioner without amendment to this chapter when the jury commissioner considers it necessary for purposes of fairness or efficiency or to ensure compliance with this chapter.

(e) Names shall be drawn randomly in the manner prescribed in section 15 of this chapter.

(f) Names drawn from the master list may not be returned to the list until one (1) year after the date of the drawing of the name.

*As added by P.L.98-2004, SEC.7.*

### **IC 33-28-6-15**

#### **Procedure for drawing names**

Sec. 15. (a) If the master list contains names in some sequential order, such as alphabetic or numeric sequence, the drawing of names from the master list shall be performed in the following manner:

STEP ONE: The total number of names on the master list shall be divided by the number of names desired to be drawn. The whole number next greater than the resulting quotient shall be the "key number" except that the key number may not be less than two (2).

STEP TWO: A "starting name" for making the selection shall then be determined by randomly choosing a number between one (1) and the "key number", inclusive.

STEP THREE: The required number of names shall then be selected beginning with the "starting name" selected under STEP TWO and proceeding to successive names appearing in the master list at intervals equal to the "key number", recommencing at the beginning of the list until the required number of names has been selected.

(b) Upon recommencing at the beginning of the list, or if additional names are subsequently ordered to be drawn from the master list, names previously selected in the process described in subsection (a) STEP THREE shall be disregarded in selecting the additional name.

(c) An electronic or a mechanical system may be used to draw names from the master list.

*As added by P.L.98-2004, SEC.7.*

### **IC 33-28-6-16**

#### **Juror qualification form; mailing; contents; failure to return; misrepresentation**

Sec. 16. (a) Not more than one (1) calendar week after the date of the drawing of names from the master list, the jury commissioner shall cause to be mailed to each person whose name is drawn a juror qualification form. The form shall be accompanied by instructions to fill out and return the form by mail to the jury commissioner within ten (10) days after its receipt. The instructions shall further state that requests for excuse from jury service during the next jury term should accompany return of the qualification form.

- (b) The juror qualification form:
  - (1) shall be designed by the jury commissioner subject to approval by the court as to matters of content; and
  - (2) must elicit the name, address of residence, and age of the prospective juror and whether the prospective juror:
    - (A) is a citizen of the United States and a resident of the county;
    - (B) is able to read, speak, and understand the English language;
    - (C) has any physical or mental disability impairing the prospective juror's capacity to render satisfactory jury service; or
    - (D) has had rights revoked by reason of a felony conviction and not restored.

The juror qualification form must contain the prospective juror's declaration that the prospective juror's responses are true to the best of prospective juror's knowledge. Notarization of the juror qualification form is not required.

(c) If the prospective juror is unable to fill out the form, another person may do it for the prospective juror. A person filling out the form for a prospective juror shall indicate that the person has done so and the reason that the prospective juror was unable to fill out the form.

(d) If it appears there is an omission, ambiguity, or error in a returned form, the jury commissioner shall again send the form, instructing the prospective juror to:

- (1) make the necessary addition, clarification, or correction; and
- (2) return the form to the jury commissioner within ten (10) days after its second receipt.

(e) A prospective juror who fails to return a completed juror qualification form as instructed shall be directed by the jury commissioner to appear before the jury commissioner to fill out a juror qualification form.

(f) At the time of a prospective juror's appearance for jury service, or at the time of any official conversation with the court or jury commissioner, any prospective juror may be required to fill out another juror qualification form in the presence of the court or jury commissioner. At this time the prospective juror may be questioned, but only with regard to the prospective juror's responses to questions contained on the form and grounds for the prospective juror's excuse or disqualification. Any information thus acquired by the court or clerk shall be noted on the juror qualification form.

(g) A prospective juror who fails to appear as directed by the jury commissioner under this section shall be ordered by the court to appear and show cause for the prospective juror's failure to appear as directed. If the prospective juror fails to appear under the court's order or fails to show good cause for the prospective juror's failure to appear as directed by the jury commissioner, the prospective juror is guilty of criminal contempt.

(h) A person who knowingly misrepresents a material fact on a

juror qualification form for the purpose of avoiding or securing service as a juror commits a Class C misdemeanor.

*As added by P.L.98-2004, SEC.7.*

### **IC 33-28-6-17**

#### **Disqualification from jury service**

Sec. 17. (a) The court or the jury commissioner shall determine solely on the basis of information provided on the juror qualification form or interview with the prospective juror whether or not the prospective juror is disqualified for jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form or electronic data processing facsimile and on the alphabetical list of names drawn from the master list.

(b) A prospective juror is disqualified to serve on a jury if the prospective juror:

(1) is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county;

(2) is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;

(3) is incapable, by reasons of a physical or mental disability, of rendering satisfactory jury service; or

(4) has had the prospective juror's rights revoked by reason of a felony conviction and not restored.

(c) A person claiming a disqualification under subsection (b)(3) may be required to submit a physician's or an authorized Christian Science practitioner's certificate as to the disability. The court may subject the certifying physician or practitioner to inquiry.

*As added by P.L.98-2004, SEC.7.*

### **IC 33-28-6-18**

#### **Jury wheel; drawing for jury panel; summons**

Sec. 18. (a) The jury commissioner shall maintain a qualified jury wheel and shall place in the jury wheel the names or identifying numbers of all prospective jurors drawn from the master list who are not disqualified or excused.

(b) A judge of any court or any other state or county official having the authority to conduct a trial or hearing with a jury within the county by order may direct the jury commissioner to draw and assign to that court or official the number of qualified jurors necessary for one (1) or more petit jury panels. Upon receipt of the order and in a manner prescribed in section 20 of this chapter, the jury commissioner shall publicly draw at random from the qualified jury wheel the number of qualified jurors required by the order and assign the qualified jurors so drawn to the court's jury panel.

(c) Upon receipt of an order for a grand jury, the jury commissioner shall publicly and in a manner prescribed in section 20 of this chapter draw at random from the qualified jury wheel twelve (12) qualified jurors who shall be directed to appear before the chief judge. The chief judge shall randomly select six (6) jurors and one

(1) alternate juror after having explained to the twelve (12) prospective jurors the duties and responsibilities of a grand jury and having excused jurors as prescribed in section 21 of this chapter.

(d) An alphabetical listing of grand and petit jurors assigned to each court location shall be maintained by the jury commissioner and a copy transmitted to the judge for whom the names have been drawn.

(e) If a grand, petit, or other jury is ordered to be drawn, the clerk shall cause each person drawn for jury service to be served with a summons either personally or by registered or certified mail, return receipt requested, addressed to the person at the person's usual residence, business, or post office address. The summons requires the person to report for jury service at a specified time and place.

(f) If there is an unanticipated shortage of available petit jurors drawn from a qualified jury wheel, the court may require the jury commissioner to:

(1) draw additional jurors at random from the qualified jury wheel; or

(2) send available jurors from another panel to the court location requiring additional jurors.

Talesmen may not be solicited from among bystanders or from any source except from among names drawn from the qualified jury wheel.

(g) The names of qualified jurors drawn from the qualified jury wheel and the contents of jury qualification forms completed by those jurors may not be made available to the public until the period of service of those jurors has expired, except that attorneys in any cases in which these jurors may serve shall have access to the information.

*As added by P.L.98-2004, SEC.7.*

### **IC 33-28-6-19**

#### **Exemption of qualified jurors**

Sec. 19. A qualified prospective juror is not exempt from jury service except for the following:

(1) Members in active service of the Armed Forces of the United States who are actively engaged in the performance of their official duties.

(2) Elected or appointed officials of the executive, legislative, or judicial branches of government of the:

(A) United States;

(B) State of Indiana; or

(C) counties affected by this chapter;

who are actively engaged in the performance of their official duties.

(3) A person who:

(A) would serve as a juror during a criminal trial; and

(B) is:

(i) an employee of the department of correction whose duties require contact with inmates confined in a



department of correction facility; or  
(ii) the spouse or child of a person described in item (i);  
and desires to be excused for that reason.

*As added by P.L.98-2004, SEC.7.*

### **IC 33-28-6-20**

#### **Drawing of names from qualified wheel**

Sec. 20. The same method described in section 15 of this chapter for drawing names from the master list shall be followed for drawing names from the qualified wheel unless the names in the qualified wheel are not in some sequential order as described in section 15 of this chapter. If the names are in the form of ballots or in some other form in which they must be blindly drawn from a container by hand, the key number system is not necessary.

*As added by P.L.98-2004, SEC.7.*

### **IC 33-28-6-21**

#### **Excuse from jury service**

Sec. 21. (a) Except as provided in section 19 of this chapter, a person may not be automatically excused under this chapter. The chief judge or jury commissioner, upon request of a prospective juror, shall determine on the basis of information provided on the juror qualification form, correspondence from the prospective juror, or interview with the prospective juror whether the prospective juror should be excused from jury service. The jury commissioner shall enter this determination in the space provided on the juror qualification form.

(b) A person who is not disqualified for jury service may be excused from jury service only upon a showing of undue hardship, extreme inconvenience, or public necessity, until the time of the next drawing at which time the person will be resummoned. Appropriate records shall be maintained by the jury commissioner to facilitate a resummoning.

(c) Requests for excuse, other than those accompanying return of the qualification form, shall be made by the prospective juror in writing to the presiding judge not later than three (3) weeks before the date upon which the prospective juror has been summoned to appear.

*As added by P.L.98-2004, SEC.7.*

### **IC 33-28-6-22**

#### **Motion to stay proceedings or dismiss indictment for failure to comply with this chapter**

Sec. 22. (a) Not more than seven (7) days after the moving party discovered or by the exercise of diligence could have discovered the grounds and before the petit jury is sworn to try the case, a party may move to stay the proceedings, and in a criminal case, to dismiss the indictment (if the case has been brought by indictment) or stay the proceedings or for other appropriate relief, on the ground of substantial failure to comply with this chapter in selecting the

prospective grand or petit jurors.

(b) Upon motion filed under subsection (a) containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with this chapter, the moving party is entitled to present in support of the motion the testimony of the jury commissioner any relevant records and papers not public or otherwise available used by the jury commissioner and any other relevant evidence. If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with this chapter, the court shall stay the proceedings pending the selection of the jury in conformity with this article, and may dismiss an indictment (if the instant case was brought by indictment) or grant other appropriate relief.

(c) The procedures prescribed by this section are the exclusive means by which the state, a person accused of an offense, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter.

(d) The parties to the case may inspect, reproduce, and copy the records or papers of the jury commissioner at all reasonable times during the preparation and pendency of a motion under subsection (a).

*As added by P.L.98-2004, SEC.7.*

### **IC 33-28-6-23**

#### **Preservation of records; public inspection**

Sec. 23. After the period of service for which names were drawn from the master jury list has expired, and all persons elected to serve as jurors have been discharged, all records and papers compiled and maintained by the jury commissioner or the clerk shall be preserved by the clerk for a period as prescribed by rule of the supreme court and must be available for public inspection at all reasonable times.

*As added by P.L.98-2004, SEC.7.*

### **IC 33-28-6-24**

#### **Term of service**

Sec. 24. In any one (1) year period, a person may not be eligible or required to be available for service as a petit or grand juror for more than one (1) term of service, except when necessary to complete service in a particular case. The term of service shall be three (3) months unless a shorter jury term is ordered by the chief judge due to a sustained increase in frequency or length of jury trials that would result in a requirement for jurors to be present at court more than ten (10) court days during the quarter, except as necessary to complete service in a particular case.

*As added by P.L.98-2004, SEC.7.*

### **IC 33-28-6-25**

#### **Failure to comply with summons; criminal contempt; punishment**

Sec. 25. A person summoned for jury service who fails to appear or to complete jury service as directed shall be ordered by the court

to appear and show cause for the person's failure to comply with the summons. If the person fails to show good cause for noncompliance with the summons, the person is guilty of criminal contempt and upon conviction may be fined not more than one hundred dollars (\$100) or imprisoned in the county jail not more than three (3) days, or both.

*As added by P.L.98-2004, SEC.7.*

#### **IC 33-28-6-26**

##### **Adoption of rules**

Sec. 26. The supreme court may make and amend rules, not inconsistent with this chapter, regulating the selection and service of jurors.

*As added by P.L.98-2004, SEC.7.*